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PATENT

Serial No. 09/825,276
Amendment in Reply to Final Office Action of July 27, 2005

REMARKS

Reconsideration of the present application in view of the following remarks is respectfully requested.

In the Final Office Action, claims 1-4, 7, 9, 13, 15 and 17 were rejected under 35 U.S.C. §102(a) as being anticipated by International Patent Application Publication No. WO 00/08706 (Park). Further, claims 5 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of European Patent Application Publication No. EP 0 913 957 A1 (Cao). In addition, claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of U.S. Patent No. 5,465,399 (Oberholtzer). Moreover, claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of U.S. Patent No. 6,249,515 (Kim). Further, claims 12, 14, 16 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of Cao and U.S. Patent No. 5,920,287 (Belcher).

Applicants respectfully traverse these rejections and submit that claims 1-18 are patentable over Park, Cao, Oberholtzer, Kim and Belcher for at least the following reasons.

Park is directed to a system which seeks to determine a transmission power that provides an appropriate power level for

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successful wireless communication. Park discloses a procedure which is substantially different from that provided in accordance with the present invention. For example, in FIG. 2 of Park, a base station (BS) sends a pilot signal 212 to a mobile station (MS). The BS initiates the process. The MS measures the pilot signal strength and provides a pilot strength report 216 to the BS. At this point, the BS determines a power for transmission (218).

The present invention as recited in independent claim 1, and similarly recited in independent claims 2, 13, 15 and 17, requires:

[a] secondary station transmitting an uplink signal on the random access channel giving an indication of the radio channel characteristics, and the primary station transmitting a signal on the downlink channel at a power level and/or bit rate which takes into account the indicated radio channel characteristics, wherein the transmitting of the uplink signal is a first communication to which the transmitting of the downlink signal is responsive. (Emphasis added)

The secondary station initiates communication (See, e.g., specification at page 5, lines 3-5, and FIG. 3) by sending an uplink signal to the primary station. This is performed without initial action by the primary station. By transmitting an uplink signal, an indication of the transmission strength is determined by the primary station at the beginning of the process without the

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need for a pilot signal and the associated delay and energy expended as provided in Park.

Park fails to disclose or suggest that the transmitting of the uplink signal is a first communication to which the transmitting of the downlink signal is responsive. Cao, Oberholtzer, Kim and Belcher are cited to allegedly show features of dependent claims 3-12, 14, 16 and 18 and do not remedy this deficiency in Park.

It should be noted that a careful review of the teachings of Park on page 7, lines 8-23, describing FIG 2 (noted throughout the Final Office Action, such as on page 3), reveals that the is first communication is the pilot signal from the base station BS to the mobile station MS, i.e., on the downlink channel. This is clearly shown at the top of FIG 2, and recited on page 7, lines 8-23 of Park, namely:

FIG. 2 is a diagram illustrating a procedure for determining the initial transmission power for a traffic or control channel using the strength of a forward link pilot channel ... Referring to FIG. 2, a base station transmits a fixed forward link pilot channel signal to a mobile station in step 212. The mobile station measures the received strength of the pilot channel signal and the total receive power of the entire signals in step 214. Then, the mobile station generates an access channel message including the received strength of the pilot channel signal and send it to the base station on an access channel, in step 216. (Emphasis added)

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Thus, the mobile station transmits the access channel message in response to the pilot signal transmitted by the base station. That is, the downlink signal, namely the pilot signal transmitted by the base station in step 212, is a first communication to which the transmitting of the uplink signal (from mobile to base step 216) is responsive.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claims 2, 13, 15 and 17, requires:

the transmitting of the uplink signal is a first communication to which the transmitting of the downlink signal is responsive. (Emphasis added)

Thus, Park is diametrically opposite the present invention as recited in independent claims 1-2, 13, 15 and 17, and teaches away from having a first communication on the uplink (i.e., transmitted by the base station), and in response transmitting a downlink signal (transmitted by the mobile station).

Further, as noted above, Cao, Oberholtzer, Kim and Belcher are cited to allegedly show features of dependent claims 3-12, 14, 16 and 18 and do not remedy this deficiency in Park.

Accordingly, it is respectfully submitted that independent claims 1-2, 13, 15 and 17 should be allowable, and allowance thereof is respectfully requested. In addition, it is respectfully

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submitted that claims 3-12, 14, 16 and 18 should also be allowed at least based on their dependence from independent claims 1-2, 13, 15 and 17, as well as for the separately patentable elements contained in each of the dependent claims.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Applicants reserve the right to submit further arguments in support of the above stated position as well as the right to introduce relevant secondary considerations including long-felt but unresolved needs in the industry, failed attempts by others to invent the invention, and the like, should that become necessary. In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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